IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6145 of 2007()

(CRIME NO.315/2007 OF VATTIYOORKAVU POLICE STATION)

PETITIONER/3RD ACCUSED:

SAJI, AGED 24 YEARS, S/O. RASALAYYAN,
SHINY NIVAS, PEOPLES NAGAR, KACHANI,
KARAKULAM P.O., TRIVANDRUM.

BY ADV. SRI.T.A.UNNIKRISHNAN

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No.6145 OF 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 3rd accused. He faces allegations in a crime registered, inter alia, under Sec.379 of the IPC. That is the only non-bailable offence alleged. The de facto complainant and his brother-in-law were allegedly proceeding in a motor-cycle. The accused persons – three (including the petitioner) named and 4 others, allegedly had stopped the de facto complainant's motor-cycle and had assaulted him. The alleged motive is the refusal by the de facto complainant to accept the invitation for drinking sprees along with the accused. The de facto complainant has allegedly suffered a fracture of the nasal bone. The offence alleged under Sec.325 of the IPC is bailable.

2. There is a further allegation that a gold chain worn by

the de facto complainant was forcibly snatched away. Later, the de facto complainant changed his version and he stated that the chain was not snatched away; but it had fallen on the ground in the course of the incident.

3. Investigation is in progress. The petitioner apprehends imminent arrest. The 1st accused has already been arrested and enlarged on bail.

4. The learned counsel for the petitioner submits that the petitioner is absolutely innocent of the allegations levelled against him. The petitioner had nothing to do with the dispute between the de facto complainant and the 1st accused. The petitioner only happened to be present at the scene. False and frivolous allegations are being raised against the petitioner, submits the learned counsel for the petitioner. In these circumstances, the petitioner may not be compelled to endure the trauma of undeserved arrest and detention, submits the learned counsel for the petitioner.

5. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations are serious and the petitioner has to be interrogated in the interests of a fair, efficient and expeditious investigation.

6. I have considered all the relevant inputs. I am satisfied,

notwithstanding the opposition by the learned Public Prosecutor, that the petitioner can be granted anticipatory bail. A reading of the F.I.R. in its totality, I must say, does not inspire confidence. That read along with the change of version of the de facto complainant about the alleged theft does persuade me to grant anticipatory bail to the petitioner.

7. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 17/10/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 18/10/07 and 19/10/07. During this period the Investigating Officer shall be at liberty to interrogate the petitioner in custody and do all necessary steps for a proper investigation. Thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the

Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 17/10/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 17/10/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge